

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

DALE PELLENS and MARLENE PELLENS,

Plaintiff,

Case Number: 09-11999

v.

JUDGE PAUL D. BORMAN
UNITED STATES DISTRICT COURT

TAMARA L. MALONE,

Defendant.

_____ /

**OPINION AND ORDER DENYING DEFENDANT'S REMOVAL PETITION AND
REMANDING PLAINTIFF'S COMPLAINT TO STATE COURT**

Defendant Tamara L. Malone filed a petition for removal in this Court on May 26, 2009, purporting to remove a landlord/tenant action that had been filed against her in state district court. (Doc. No. 1). On August 6, 2009, the Court ordered Plaintiff to show cause why this action should not be dismissed for a lack of subject matter jurisdiction. (Doc. No. 5). The Court also ordered Plaintiff to file the state court complaint, which was not attached to the removal petition.

On August 13, 2009, Plaintiff filed the state court complaint, but did not otherwise respond to the Court's order to show cause. The state court complaint does not contain a federal claim, nor is this a diversity case between citizens of different case. A state court complaint presenting only state law claims is not removable, absent diversity, unless "some substantial, disputed question of federal law is a necessary element of one of the well-pleaded state claims or if the plaintiff's claim is really one of federal law" *Her Majesty the Queen in Right of the Province of Ontario v. City of Detroit*, 874 F.2d 332, 339 (6th Cir.1989) (internal quotation marks omitted).

In this case, Plaintiffs have not asserted a federal claim and no other basis for federal jurisdiction exists. Accordingly, the Court denies Defendant's removal petition, pursuant to Fed. R. Civ. P. 12(h)(3), for a lack of subject matter jurisdiction, and remands this case to state court.

SO ORDERED.

s/Paul D. Borman

PAUL D. BORMAN

UNITED STATES DISTRICT JUDGE

Dated: August 25, 2009

CERTIFICATE OF SERVICE

Copies of this Order were served on the attorneys of record by electronic means or U.S. Mail on August 25, 2009.

s/Denise Goodine

Case Manager